

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
(Seattle)

CENTURION PRO SOLUTIONS INC., a
Canadian corporation,

Plaintiff,

v.

PAOLO DEVELOPMENTS LTD., a limited
liability corporation of the British Virgin
Islands and PETER RYAN HALL, a Canadian
citizen,

Defendants.

Civil Action No.

COMPLAINT FOR DECLARATORY
JUDGMENT OF PATENT INVALIDITY
AND NON-INFRINGEMENT AND
UNFAIR COMPETITION

Plaintiff, Centurion Pro Solutions Inc., doing business as Centurion Pro (hereinafter "Centurion Pro"), for its complaint against Defendants Paolo Developments Ltd., doing business as "Paolo Developments" or "Paolo" (hereinafter "Paolo") and Peter Ryan Hall (hereinafter "Hall") alleges as follows:

THE PARTIES

1. Plaintiff Centurion Pro is a Canadian corporation, having a business address of 76th Avenue, Surrey, British Columbia V3W 2V3, Canada.

2. On information and belief, Defendant Paolo is a limited liability corporation of the British Virgin Islands, having a business address of Post Office Box 957, Offshore Incorporations Centre, Road Town, BVI.

3. On information and belief, Defendant Paolo occasionally does business under its corporate name.

4. On information and belief, Defendant Hall is an individual having a residential address of 1030 - 125 Denman Street, Suite 166, Vancouver, British Columbia V6G 2M6, Canada.

JURISDICTION AND VENUE

5. This civil action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281, 283, 284, 285; the federal unfair competition laws of the United States, 15 U.S.C. § 1125(a) [Lanham Act § 43(a)]; and under the Washington State Consumer Protection Act R.C.W. 19.86.020, *et seq.* Thus, this Court has jurisdiction of this declaratory judgment action under 28 U.S.C. §§ 2201 and 2202 (declaratory judgment actions); 1338(a) and (b) (patent and unfair competition actions) and supplemental jurisdiction under 28 U.S.C. § 1367(a).

6. Venue with respect to the Defendants is properly laid in the United States District Court for the Western District of Washington pursuant to 28 U.S.C. § 1391(b)(1), (b)(3) and (d) as well as under 28 U.S.C. § 1400(b) because on information and belief the corporate Defendant resides in the Western District of Washington within the meaning of 28 U.S.C. § 1391(c) and is doing business therein. Defendant Hall is an individual controlling the acts of Defendant Paolo.

FACTS COMMON TO ALL COUNTS

7. Centurion Pro is a manufacturer and wholesale distributor of agricultural equipment including plant trimming products shown in "Exhibit A" attached hereto, and herein referred to as the "trimming products" or "accused products."

8. Centurion Pro has since at least as early as 2013 made, sold and transported in commerce, and throughout the State of Washington, its trimming products similar to products

1 shown on Exhibit A attached hereto under its registered Centurion Pro[®] Trademark. Centurion
2 Pro's customers for these products include retailers and end users located in this Judicial District.
3 Centurion Pro's plant trimming products are also available online through
4 "www.cprosolutions.com."

5 9. On information and belief, Defendant Hall is the Chief Executive Officer of
6 Defendant Paolo and controls all the day to day activities of the corporation including all
7 communications with its attorneys.

8 10. On information and belief, Defendant Paolo is a manufacturer and distributor of
9 plant trimming products similar to the Centurion Pro plant trimming products and alleges that it
10 is the owner of U.S. Patent No. 9,161,566 titled, "Plant Processing System and Method," issued
11 October 20, 2015 (hereinafter "the Hall U.S. Patent" or "the asserted Patent") and assigned to
12 Paolo Developments Ltd., Road Town, Tortola, VG. A true and accurate copy of the Hall U.S.
13 Patent is attached hereto as "Exhibit B."

14 11. Defendant Paolo, under Defendant Hall's direction and control has forwarded
15 demand letters, through its counsel Tessmer Law Offices, to Canadian customers alleging
16 infringement of Canadian Patent No. 2,740,149 from which the asserted Hall U.S. Patent claims
17 priority and is substantially similar to. A true and accurate copy of one of said demand letters
18 dated January 18, 2016 is attached hereto as "Exhibit C." On information and belief, similar
19 demand letters relating to the Hall U.S. Patent were sent to Centurion Pro's customers in the
20 State of California. Discovery will show that demand letters relating to the Hall U.S. Patent have
21 been sent or have been authorized by Defendant Hall to be sent to Centurion Pro's customers in
22 the State of Washington and in this Judicial District.

23 12. On information and belief, Defendant Paolo under direction and control of
24 Defendant Hall has been engaged in the sale of or offering to sell plant trimming products in this
25 Judicial District and may still be selling or offering to sell such products.
26

13. Defendant Paolo placed Plaintiff Centurion Pro on notice of Paolo's U.S. Patent rights and accused Plaintiff of infringing said

14. Hall U.S. Patent by virtue of selling the Centurion Pro[®] plant trimming products shown in Exhibit A by letter dated January 20, 2016, a copy of which is attached hereto as "Exhibit D."

CLAIM FOR RELIEF, COUNT I

Declaration of Non-Infringement

15. Centurion Pro repeats and realleges each and every allegation of paragraphs 1 through 14 as if recited herein.

16. The Hall U.S. Patent has 13 claims. Of those claims, only Claim 1 is independent. That Claim is reproduced below.

1. A plant processor, comprising:

(a) a cylindrical rotatable drum for receiving plant matter, the rotatable drum having a plurality of slots and a ring at each end of the drum positioned coaxially with the drum;

(b) a cutting reel positioned below the rotatable drum and being rotatable in an opposite direction to the drum, the cutting reel comprising a cylindrical rod and a plurality of longitudinal cutting blades connected thereto, the cutting reel further including a shaft extending axially therefrom at each end, the shaft being in frictional engagement with said rings on the drum and said rings supporting the drum on the shaft;

(c) a cutting knife horizontally positioned below the top of the reel; and

(d) a motor to rotate the shaft and the reel and to effect rotation of the drum in the opposite direction as a result of the frictional engagement between the shaft and said rings.

17. The remaining claims 2 - 13 incorporate each and every element set forth in independent Claim 1 in addition to other elements. Centurion Pro's plant trimming machine (as demonstrated by its "mini" plant trimming machine) lacks *inter-alia* element (c), "a cutting knife horizontally positioned below the top of the reel." Thus, Centurion Pro's accused products do not literally infringe any claims of the Hall U.S. Patent because the Centurion Pro[®] plant trimming

1 products have a cutting knife which is above the top of the claimed cutting reel as shown in
2 "Exhibit E" attached hereto.

3 18. Plaintiff Centurion Pro's plant trimming products are not legally equivalent to any
4 claim of the asserted Patent.

5 19. Plaintiff Centurion Pro has neither directly infringed nor induced the infringement
6 by others of the asserted Patent by importing, selling or offering to sell in or into the United
7 States plant trimming machines which infringe the asserted Patent. The Plaintiff's products
8 shown in Exhibit A do not literally infringe the asserted Patent nor are they legally equivalent to
9 the invention claimed in the asserted Patent.

10 20. By reason of said acts by Defendants, Plaintiff has been and may continue to be
11 seriously damaged and irreparably harmed unless the Defendants are enjoined by this Court from
12 sending further demand letters to Plaintiff's U.S. customers, and thus Plaintiff is without
13 adequate remedy at law.

14 21. There is an actual and justiciable controversy between the parties as to whether
15 Plaintiff Centurion Pro and its customers have infringed any valid claims of the Hall U.S. Patent.

16 22. Plaintiff is entitled to and therefore demands a declaratory judgment that it has not
17 infringed any valid claims of the asserted Patent, and for an award of damages, costs and
18 attorney's fees as allowable including a trebling of any award.

19 23. This is an exceptional case for purposes of awarding monetary damages, costs and
20 attorney's fees.

21 **CLAIM FOR RELIEF, COUNT II**

22 **Declaration of Invalidity**

23 24. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through
24 23 as if recited herein.

1 25. Every claim of U.S. Patent No. 9,161,566 to Hall (the Asserted Patent) is invalid
2 *inter alia* under 35 U.S.C. § 103 in view of the relevant prior art and therefore unenforceable
3 under the U.S. Patent laws.

4 26. With respect to independent Claim 1 of the Asserted Hall U.S. Patent, it would
5 have been obvious to a person of ordinary skill in the relevant art at the time the invention was
6 made to combine the basic structure of the plant trimming device disclosed in U.S. Patent No.
7 8,757,524 to Mosman modified by the cutter bar (bed knife 41) disclosed in U.S. Patent No.
8 5,291,724 to Cotton and the shaft drive support shown at both ends of a photographic processing
9 drum 136 disclosed by Watts, et al. in U.S. Patent No. 5,692,188. As shown by Cotton, the use
10 of a cutting knife horizontally positioned below the top of a cutting reel (reference numeral 30 in
11 Cotton) is extremely common. Watts, et al. show driven and un-driven rollers 54, 54' driven off
12 a drive shaft (motorized pulley 62) to drive a drum. Figure 1 shows the right hand side of the
13 driving apparatus, while Figure 2 shows the driving apparatus at the distal end of the machine.
14 In both cases, the shaft 50 is driven through a recessed groove 56 on each end of the drum by
15 way of the single drive shaft (motorized pulley 62). It would be a matter of ordinary design
16 choice to extend the shaft 62 through both ends of the machine shown in Watt, et al. as shown in
17 Figure 2 through the overflow port 44. One of ordinary skill in the art would be motivated to
18 make that adaptation because driving the drum at both ends would advantageously decrease the
19 torque on the drum surface itself allowing it to be made from a less heavy gauge and less
20 expensive material. This would be a matter of ordinary design choice to a mechanical engineer
21 of the typical level of skill in this art. True and accurate copies of the Mosman, Cotton and
22 Watts, et al. patents are attached hereto as "Exhibits F, G and H," respectively.

23 27. Claims 8 through 10 of the asserted Patent are obvious and therefore invalid under
24 35 U.S.C. § 103 in view of the combined teachings of Mosman, Watts, et al. and Cotton as those
25 dependent claims relate to the cutting knife being slidable along a second slot in the frame of the
26 processor by a knife adjusting knob cooperating with the knife. Assuming that a first slot is

1 inferentially claimed and a second slot is provided for adjustment of the knife by a knife
2 adjusting rod, that structure is also disclosed in Cotton where the cutter bar 41 is adjustable
3 through slots 55 in brackets attached to both sides of the reel support structure 19, 20. The lack
4 of antecedent basis in the claims for a “first shot” renders those claims invalid under
5 35 U.S.C. § 112.

6 28. Claims 2 through 4 are obvious under 35 U.S.C. § 103 in view of the above
7 combination of references. U.S. Patent No. 5, 692,188 to Watts, et al. disclose the necessary
8 belts and O-rings as discussed above and particularly with respect to bands 58 as described at
9 column 5, lines 14-20 of that patent.

10 29. Dependent claims 5-7 and 11-12 are invalid under 35 U.S.C. § 103 in view of the
11 combined teachings of Mosman, Cotton, Watts, et al. and U.S. Patent No. 6,889,491 to Buchko.
12 Those claims are directed to the invention of claim 1 including the cutting knife being
13 maintained in position by at least one magnet to enable quick removal and replacement of the
14 cutting knife. The use of magnets to hold a cutting blade with respect to a reel mower blade is
15 disclosed in U.S. Patent No. 6,889,491 to Buchko particularly with reference to Figure 2 of the
16 prior art design. Buchko’s improvement is to include a plurality of magnets mounted on the
17 frame and a bed knife which is magnetically held against the magnets in an operating position
18 such that the bed knife is oriented in a cutting relationship with the reel. When the bed knife is
19 in an operating position, sliding movement of the bed knife with respect to the magnets while
20 allowing the bed knife to move away from the magnets may be prevented. A true and accurate
21 copy of the Buchko patent is attached hereto as “Exhibit I.”

22 30. Dependent claim 13 is invalid under 35 U.S.C. § 103 in view of the above prior
23 art references. Buchko specifically shows magnets 21 embedded in a bed bar 22 for the bed
24 knife 18. Thus, all of the elements of all the claims are disclosed in various combinations of
25 Mosman, Cotton, Watts, et al., and Buchko. Mosman, being the primary reference showing
26 basically all of the elements of the claimed invention. The remaining references show minor

1 variations which would be obvious to one of ordinary skill in the art to combine with Mosman to
2 advantageously arrive at Hall's claimed invention without the necessity of the complex
3 eccentrically mounted cutting reel shown in Mosman. All of the claims are thus invalid under 35
4 U.S.C. § 103(b) and/or 35 U.S.C. § 112.

5 31. There is an actual and justiciable controversy between the parties as to whether
6 any claims of the Hall U.S. Patent are valid and/or enforceable.

7 32. Plaintiff Centurion Pro is entitled to a declaratory judgment that none of the
8 claims of the U.S. Hall Patent are valid and/or enforceable under one or more of Sections of the
9 U.S. Patent Laws codified in Section 35 of The United States Code including but not limited to
10 §§103 and/or 112.

11 **CLAIM FOR RELIEF, COUNT III**

12 **Federal Unfair Competition**

13 33. Centurion Pro repeats and realleges each and every allegation of paragraphs 1
14 through 32 as if recited herein.

15 34. Defendants' aforesaid allegations of infringement to Centurion Pro's customers
16 constitute a false and misleading description of fact, or false and misleading representation of
17 fact which is likely to confuse the public into believing that use of Centurion Pro's plant
18 trimming products would subject said customers to liability in a civil action in the U.S. District
19 Courts.

20 35. Plaintiff is likely to be damaged by such false allegations of the type described.

21 36. The Defendants' aforesaid acts have been knowing, willful and without Plaintiff's
22 prior knowledge or consent and are therefore a violation of the Plaintiff's rights under 15 U.S.C.
23 § 1125(a) [§ 43(a) of the Lanham Act].
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25
26

CLAIM FOR RELIEF, COUNT IV

Violation of Consumer Protection Act

37. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 36 as if recited herein.

38. The above described acts of Defendants Paolo and Hall, constitute an unfair or deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of R.C.W. 19.86.020 et seq. that have injured Plaintiff in its business and property.

39. Defendants' aforesaid acts have been knowing, willful and without Plaintiff's permission and have been intended to damage Plaintiff's goodwill in the State of Washington.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the entry of a judgment by this Court against the Defendants providing:

(a) That the Defendants have violated the Washington State Consumer Protection Act, R.C.W. 19.86.020 et seq.;

(b) For an award of damages, together with interest, to compensate the Plaintiff for the Defendants' past acts of unfair competition and misidentification of origin, and that such an award be trebled, and for an award to Plaintiff of all of its costs and attorney's fees with respect thereto in accordance with R.C.W. 19.86.090;

(c) That the Defendants have violated § 43(a) of the Lanham Act;

(d) That the Defendants, their respective agents, servants, employees, attorneys and all other persons in active concert or in participation with each Defendant be preliminarily and permanently enjoined and restrained from making any false statements regarding the Defendants' patent rights which are likely to confuse the public, or cause mistake, or to deceive the public as to believing that they might be subject to suit in a civil action by virtue of purchasing or using a Centurion Pro[®] plant trimming machine;

1 (e) For an award of damages in accordance with 15 U.S.C. § 1117(a) for damages
2 sustained by the Plaintiff, and the costs of the action including a trebling of such damages and
3 that the Court determine that this is an exceptional case and award the Plaintiff its reasonable
4 attorney's fees;

5 (f) For a declaration that the Plaintiff has not infringed and/or induced infringement
6 of United States Letters Patent No. 9,161,566;

7 (g) That the Defendants, their respective agents, servants, employees, attorneys, and
8 all other persons in active concert or in participation with the Defendants, be preliminarily and
9 permanently enjoined and restrained from sending demand letters to Centurion Pro's customers,
10 retailers, distributors and the like with respect to Defendants' rights under said patent.

11 (h) For an award to Plaintiff of all of its costs and reasonable attorney's fees with
12 respect thereto in accordance with 35 U.S.C. §§ 284 and 285;

13 (i) For a declaration that the Defendants' U.S. Patent No. 9,161,566 is invalid,
14 partially invalid and/or unenforceable;

15 (j) That the Defendants, their respective agents, servants, employees, attorneys, and
16 all other persons in active concert or in participation with the Defendants, by preliminarily and
17 permanently enjoined and restrained from publically stating that Plaintiff Centurion Pro's Plant
18 Trimming product shown in Exhibit A and substantially identical products infringe any claims of
19 its U.S. Patent No. 9,161,566;

20 (k) For an award of the Plaintiff's actual damages in accordance with 15 U.S.C.
21 § 1117, together with interest as this Court considers just to compensate Plaintiff for the
22 Defendants' false allegations of infringement of its patent rights and for an award to Plaintiff of
23 all its costs with respect thereto in accordance with 15 U.S.C. § 1117; and

24 (l) For other and further relief as is provided by law and that this Court deems just
25 and equitable.
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Respectfully submitted,

LOWE GRAHAM JONES^{PLLC}

Dated Feb. 5, 2016

By: 

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Dated Feb. 5, 2016

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